

COUNTY OF KAUAI
Minutes of Meeting
Open Session

Board/Committee:	LIQUOR CONTROL COMMISSION	Meeting Date	March 17, 2016
Location	Mo'ikeha Building, Meeting Room #3	Start of Meeting: 4:05 p.m.	End of Meeting: 5:04 p.m.
Present	Chair: Gerald Matsunaga, Vice Chair Shirley Akita; Members: Paul Endo, William Gibson, Jean Iida, Dane Oda, Josephine Sokei Also: Liquor Control Staff: Director Gerald Rapozo, Private Secretary Cherisse Zaima; Deputy County Attorney Nicholas Courson		
Excused			
Absent			

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SUBJECT	DISCUSSION	ACTION
Call To Order	Prior to the start of the meeting, Council Administrative Assistant Eddie Topenio gave the Oath of Office to new commission member William Gibson.	Chair Matsunaga called the meeting to order at 4:0 p.m. with 7 members present, constituting a quorum.
Roll Call	Director Rapozo called roll, noting 7 members were present.	
Approval of the Agenda		Ms. Iida moved to approve the agenda. Ms. Sokei seconded the motion. Motion carried 7:0.
Approval of the Minutes	<u>MINUTES OF THE MEETINGS OF MARCH 3, 2016</u>	Ms. Iida moved to approve the minutes. Ms. Sokei seconded the motion. Motion carried 7:0.
1.	<u>DIRECTOR'S REPORT:</u> a) <u>INVESTIGATORS' REPORTS</u> b) <u>INCOMING COMMUNICATIONS:</u> (1) Delicato Family Vineyards (2) The Wine Group (3) Wismettac Asian Foods, Inc.	

	<p>(4) Sweepstakes Consulting (5) Disturbance Report from Joe's on the Green</p> <p>c) <u>OUTGOING COMMUNICATIONS:</u> (1) Delicato Family Vineyards (2) The Wine Group (3) Council Chair Mel Rapozo</p> <p>d) <u>EMPLOYEES IN LICENSED PREMISES:</u> Managers and Assistant Managers – See Attachment</p> <p>e) <u>ACTIONS OF THE DIRECTOR:</u> (1) KEOKI'S PARADISE (2) SHERATON KAUAI RESORT (3) THE WINE SHOP (4) KAUAI COMMUNITY PLAYERS</p> <p>f) <u>INFORMATIONAL MATTERS:</u></p>	<p>Mr. Oda moved to receive Items 1(a) through (f). Ms. Sokei seconded the motion. Motion carried 7:0.</p>
2.	<p><u>CHANGE IN AUTHORIZED AGENT:</u></p> <p><u>EATING HOUSE 1849 BY ROY YAMAGUCHI:</u> Removal of Feli Rivera as authorized agent effective immediately.</p>	<p>Ms. Iida moved to accept the change in corporate officer. Ms. Sokei seconded the motion. Motion carried 7:0.</p>
3.	<p><u>PROPOSED AMENDMENTS TO THE RULES AND REGUALTIONS OF THE KAUAI LIQUOR CONTROL COMMISSON:</u></p> <p>Director Rapozo provided each commissioner with a copy of the proposed rule amendments, gave information about the rule change process and where we are at in the process, and welcomed any questions/discussion. Once these proposed rule amendments go to public hearing, if they are</p>	

	<p>approved, because fees are involved in some of the amendments, these rules will have to go to council for approval.</p> <p>Director Rapozo noted HRS 281-17(a)(4) gives the Commission authority to amend rules as necessary, and HRS 281-17.5 explains that whenever any fee structures are changed or set, the amendments must also go the Mayor and Council for approval.</p> <p>The Commission agreed to go through the rules page by page and should any questions on the amendments arise, they can be addressed at that time.</p> <p>On Page 1, Rule 1.1 Definitions relating to “Condominium Hotel Guest Room”, Deputy County Attorney Courson questioned whether the term “adequate” in relation to lodging for transient guests was something that was suggested by the Small Business Regulatory Review Board. Director Rapozo replied that it was included by a previous Director when the rule amendments were initially being worked on.</p> <p>Commissioner Akita referenced Page 26, noting the terms “bona fide” and “specific order”, relating to serving liquor. She asked for clarification on both of those terms, and the difference between the two. Attorney Courson stated he would consider “bona fide” to mean an allowable order, as in someone was of legal age to order, or was not intoxicated or in a state that would otherwise prohibit service. He further stated that “Specific Order” would mean specific type of drink.</p> <p>Investigator Lorenzo Moises added that there are different classes of licenses, such as General and Beer & Wine, and stated for example that if someone ordered a shot of hard liquor at an establishment licensed only for Beer & Wine, that would not be considered a bona fide, or allowable order.</p> <p>There was discussion on whether or not those terms should be included in</p>	
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	<p>the Definitions section of the rules.</p> <p>Commissioner Matsunaga noted that he is concerned about the term “legal age”, noting that the legal age for someone to serve alcohol is 18, while the legal age to consume alcohol is 21. He feels when the rules reference “legal age” it should be made clear as to which legal age is being referenced. Director Rapozo noted that the Hawaii Revised Statutes states the definition for “minor” is considered under 21 years, which the rules mirror. Commissioner Matsunaga noted that the problem he sees is that the rules do not use the term “minor”, it uses the term “legal age”. He suggested that when “legal age” is referenced, it should state the age as well. For example “a person of legal age of 21 years or older”.</p> <p>Director Rapozo noted that Rule 2.5(b)(1) removes the requirement for a Financial Statement since it is just an affidavit, and there was no one verifying the information. Attorney Courson stated that even if they did require a financial statement, the information provided wouldn't be a decision-making factor for the Commission.</p> <p>Commissioner Gibson asked if the Condominium/Hotel class was a new class to which Director Rapozo stated yes, it was added a few years ago.</p> <p>Director Rapozo noted that on Page 6 there is an added requirement for liquor liability insurance for new and transfer applications. Commissioner Endo asked whether this is requested periodically to ensure the insurance has not lapsed. Director Rapozo explained that the insurance companies inform the department when a licensee no longer has coverage, and should the department find that the licensee does not have coverage, the Commission would take action to suspend the license until the licensee does so.</p> <p>On Page 7 (g)(4), Commission Oda asked if there is a reason they propose</p>	
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	<p>to eliminate the listing of the age of the person in charge of security to which Director Rapozo replied there is no age requirement for security on the regulation side. Attorney Courson added that he favors not knowing personal, identifying information due to the potential for discrimination.</p> <p>Commissioner Oda stated his reason for asking, questioning whether there is an age limit for being in a bar. Director Rapozo explained it depends on the class of license, noting that if the revenues from the sale of alcohol are 75% or more, minors (17 and below) cannot be on premise.</p> <p>Referencing Page 8 (k), Commissioner Akita asked for clarification to which Commissioner Matsunaga explained that should the law change, the licensee is responsible to be aware of any new laws. Ignorance is no excuse.</p> <p>Referencing Rule 2.8 on Page 8, Director Rapozo explained that currently, Special licenses and Transient Vessel licenses require a \$100 filing fee for a license that costs \$33; the remainder of the deposit gets refunded to the applicant once the event is complete. This rule change will do away with the filing, and only require the license fee, which will make the process simpler and more efficient.</p> <p>Referencing Page 10, Rule 2.13 Director Rapozo explained “tasting event” was added because such events did not fall under the “trade show” designation. Tasting events are generally held at retail establishments. Attorney Courson asked if it was otherwise understood what a tasting event is to which Director Rapozo replied yes, a later part of the rule addresses that.</p> <p>On Page 11, Rule 2.15 Commissioner Matsunaga suggested they do away with the requirement for the affidavit explaining the cause of the loss of the license, and simply have the licensee pay \$25 for the duplicate. The</p>	
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	<p>suggested amendment would read: <i>A licensee shall submit a letter stating the license was lost, destroyed or mutilated, and a fee of \$25 will be charged for a duplicate license to replace the lost, destroyed or mutilated license.</i> Sub-sections b and c would be removed.</p> <p>Page 12, Rule 3.1 clarifies that the original license must be posted, not a Xerox copy; this ensures the establishment has a legitimate license. Commissioner Endo commented that with the technology available today, it would be easy to duplicate a license. Director Rapozo noted that each year the Department uses a different color license to help the investigators easily determine whether it is current. Staff noted that the original license would have a gold, embossed seal that cannot be duplicated.</p> <p>Referencing Rule 4.1, Director Rapozo explained the basic fees structure for the different types of licenses, also noting that in addition to basic fees, licensees pay an annual percentage fee, with the exception of wholesale and manufacturer licensees.</p> <p>Referencing Rule 7.1, Director Rapozo explained the stacking rule currently allows one (1) 12 oz. beer and one (1) shot to be considered one drink. The amendment changes the rule to consider one (1) beer and one (1) shot as two drinks. In addition, the two separate drinks cannot collectively exceed the 16 oz. total serving size.</p> <p>Referencing Rule 8.7, Commissioner Matsunaga suggested the deletion of sub-sections (b) and (c); sub-section (a) is sufficient.</p>	
Announcements	<p>Next Scheduled Meeting: Thursday, April 7, 2016 – 4:00 pm, Mo‘ikeha Building, Meeting Room #3.</p> <p>Director Rapozo informed the Commission that Theresa Koki, Anti-Drug Coordinator, will be briefing the Commission on the grant she received in</p>	

	the amount of \$110,000, which could include prevention on underage drinking.	
Adjournment		Chair Matsunaga adjourned the meeting at 5:04 p.m.

Submitted by: _____
Cherisse Zaima, Private Secretary

Reviewed and Approved by: _____
Gerald Matsunaga, Chair